

## ARTICLE V. JUVENILE CURFEW

### Sec. 28-171. Definitions.

The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

*Curfew hours* means the hours of 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday and 6:00 a.m. of the following day, between the hours of 11:00 p.m. on any Friday or Saturday and 6:00 a.m. of the following day, or between the hours of 9:00 a.m. and 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday.

*Emergency* ~~shall~~ means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term shall include but not be limited to a fire, natural disaster, vehicular accident, or a serious medical condition of sudden onset.

*Establishment* means any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement or entertainment.

*Guardian* ~~shall~~ means the person who, under a court order, is the guardian of the person of a minor or the public or private agency with whom a minor has been placed by a court.

*Minor* ~~shall~~ means any person under ~~18~~ 15 years of age.

*Operator* means any individual, firm, association, partnership, or corporation that operates, manages, or conducts the business of any establishment and includes the members of an association, partners of a partnership, and the officers of a corporation.

*Parent* ~~shall~~ means the natural mother or father or adoptive mother or father of a minor.

*Public place* means any place or establishment to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartments, houses?, office buildings, transport facilities, and restaurants, theaters, game rooms, shops and shopping centers.

Remain means:

(1) To linger or stay; or

(2) To fail to leave premises when requested to do so by a peace officer or the owner, operator, or other person in control of the premises.

**Sec. 28-172. Offenses.**

(a) It shall be unlawful for any minor to knowingly remain, walk, run, stand, drive or ride about, in or upon any public place in the city ~~during curfew hours between the hours of 12:00 at night (midnight) on any day of the week or between the hours of 9:00 a.m. and 2:30 p.m. on a Monday, Tuesday, Wednesday, Thursday or Friday.~~

(b) It shall be unlawful for the parent or guardian having legal custody of a minor to knowingly allow or permit the minor to be in violation of the curfew imposed in section 28-172(a) of this Code.

(c) It shall be unlawful for the owner, operator, or any other person in control of a public place to knowingly allow or permit a minor to remain upon the premises of the public place during curfew hours.

(d) Violations of this section shall be punishable as provided in section 1-6 of this Code.

**Sec. 28-173. Defenses.**

(a) It is a defense to prosecution under section 28-172 of this Code that:

~~(a)~~ 1) The minor was accompanied by his or her parent or guardian;

~~(b)~~ 2) The minor was accompanied by an adult designated by his or her parent or guardian;

~~(c)~~ 3) The minor was on an errand made necessary by an emergency;

~~(d)~~ 4) The minor was attending a school, religious, or government-sponsored activity or was traveling to or from a school, religious, or government-sponsored activity;

~~(e)~~ 5) The minor was engaged in an lawful employment activity or was going directly to or coming directly from lawful employment;

- (f 6) The minor was on the sidewalk of the place where he or she resides;
- (g 7) The minor was on an errand directed by his or her parent or guardian;
- (h 8) The minor was in a motor vehicle involved in intrastate or interstate transportation;
- (i 9) The minor was engaged in, participating in, or traveling to or from any event, function or activity for which the application of section 28-172 of this Code would contravene his or her rights protected by the Texas or United States Constitutions;
- (j 10) The minor was married or had been married or had disabilities of minority removed in accordance with chapter 31 of the Texas Family Code; or
- (k 11) With respect to the hours between 9:00 a.m. and 2:30 p.m. ~~only, that the~~ offense occurred during the school summer vacation break period of the school in which the minor is enrolled or on a holiday observed by the closure of classes in the school in which the minor is enrolled or that the minor has graduated from high school or received a high school equivalency certificate.

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(12) With respect to the hours between 10:00 p.m. and 11:00 p.m., the day following the offense is a holiday observed by the closure of classes in the school in which the minor is enrolled.

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(b) It is a ~~further~~ defense to prosecution under subsection (c) of section 28-172 that:

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(1) The owner, operator or other person in control of a public place promptly notified a peace officer that a minor was present on the premises of the public place during curfew hours and refused to leave.

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(2) The minor was engaged in a lawful employment activity on the premises.

**Sec. 28-174. Supplemental effect.**

The provisions of this article are supplemental and shall be cumulative with all other laws and ordinances applicable in any manner to juveniles.

**Sec. 28-175. Enforcement.**

Notwithstanding the penal effect of this article the chief of police is encouraged to develop alternative enforcement strategies, which may include but need not be limited to

the return of minors to their residences or schools, counseling with minors and their parents or guardians, the issuance of warning citations to minors or their parents or guardians, or the referral of instances that appear to also involve the violation of school attendance laws to those officers who are responsible for the enforcement of those laws. The enforcement strategies shall be promulgated in writing to members of the police department so that this article may be enforced in a uniform manner.

**Secs. 28-176--28-200.      Reserved.**